

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF MISSISSIPPI  
NORTHERN DIVISION**

EVALYNE NICHOLS FOR AND ON BEHALF  
OF EDDIE T. MANNEY

PLAINTIFFS

V.

No. 3:22-cv-176-CWR-LGI

LAKELAND NURSING & REHABILITATION  
CENTER, LLC and JOHN AND JANE DOES I-X

DEFENDANTS

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**NOTICE OF REMOVAL**

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TO: THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT FOR  
THE SOUTHERN DISTRICT OF MISSISSIPPI, NORTHERN DIVISION

Zack Wallace, Clerk  
CIRCUIT COURT OF HINDS COUNTY, MISSISSIPPI  
P.O. Box 327  
Jackson, Mississippi 39205

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**ATTORNEY FOR PLAINTIFF**

PLEASE TAKE NOTICE that, pursuant to 28 U.S.C. §§ 1441 and 1446, Defendant Lakeland Nursing and Rehabilitation Center, LLC ("Lakeland") files this Notice of Removal of the civil action styled *Evalyne Nichols for and on behalf of Eddie T. Manney v. Lakeland Nursing and Rehabilitation Center, LLC*; Cause No. 25CI1:22-cv-00090-AHW, from the Circuit Court of Hinds County, Mississippi, to the United States District Court for the Southern District of Mississippi, Northern Division. In support of this Notice, Lakeland states the following:

1. Plaintiff Evalyne Nichols filed this medical negligence action in the Circuit Court of Hinds County Mississippi, on February 22, 2022. The lawsuit arises out of the care and treatment provided to Eddie T. Manney while a resident of Lakeland. According to the Complaint, Mr. Manney suffered injuries as a result of Lakeland's alleged negligence.

2. Plaintiff served Lakeland with a copy of a Summons and Complaint on March 2, 2022. *See* Exhibit A. This Notice of Removal is filed within thirty days of receipt of the Summons and Complaint and is thus timely under 28 U.S.C. § 1446.

3. Venue is proper in the United States District Court for the Southern District of Mississippi, Northern Division because that is the district in which the state court action was filed. *See* 28 U.S.C. §§ 1446(a), 1446(b)(1).

4. This Court has original jurisdiction over this action—there is complete diversity of citizenship between Plaintiffs and Defendant and more than \$75,000 is in controversy, exclusive of interest and costs. *See* 28 U.S.C. § 1332.

5. Plaintiff claims that Lakeland caused Mr. Manney to suffer “psychological and emotion trauma, distress, worry, anxiety, mental suffering, physical pain, loss of enjoyment of life,” and she seeks both compensatory and punitive damages. *See* Complaint at ¶ 37. Such claims for alleged serious and permanent injuries support a finding that the amount in controversy exceeds \$75,000.00. *Gebbia v. Wal-Mart Stores, Inc.*, 233 F.3d 880, 883 (5th Cir. 2000) (finding amount in controversy to exceed \$75,000 as plaintiff sought damages for medical expenses, physical pain and suffering, loss of wages and permanent disability and disfigurement for injuries sustained after falling in defendant’s store); *Irons v. Glaxo Wellcome, Inc.*, 2006 WL 1272797, at \*2 (S.D. Miss. May 9, 2006) (citing *Gebbia* and holding that amount in controversy

requirement met based on plaintiff's claims for medical expenses, lost wages, physical pain and suffering and mental anguish arising from use of defendant's product).

6. Diversity of citizenship exists because Plaintiff is citizen of Mississippi, and Lakeland is not a citizen of Mississippi. As set forth in detail below, Lakeland Nursing and Rehabilitation Center, LLC is a limited liability company whose members are all citizens of the State of New York. Therefore, Lakeland is a citizen of New York, not Mississippi. *See Harvey v. Grey Wolf Drilling Co.*, 542 F.3d 1077, 1080 (5th Cir. 2008) (holding that the citizenship of an LLC is that of all its members).

7. Lakeland Nursing and Rehabilitation Center, LLC's members are D&N, LLC and DTD HC, LLC. D&N, LLC and DTD HC, LLC are New York limited liability companies. D&N, LLC's members are Norbert A. Bennett, the Norbert A. Bennett Children's Trust, and the Norbert A. Bennett Grand-Children's Trust. Mr. Bennett is a citizen of New York. The Norbert A. Bennett Children's Trust and the Norbert A. Bennett Grand-Children's Trust are traditional trusts. The trustee of the Norbert A. Bennett Children's Trust is Ronald Bennett, a citizen of New York, and the trustee of the Norbert A. Bennett Grand-Children's Trust is also Ronald Bennett. *See Mullins v. TestAmerica, Inc.*, 564 F.3d 386, 397 n. 6 (5th Cir. 2009) (citing *Navarro Savs. Ass'n v. Lee*, 446 U.S. 458, 464 (1980) (holding that the citizenship of a trust is that of its trustee)).

8. DTD HC, LLC's members are Donald T. Denz and the Donald T. Denz Irrevocable Trust. Mr. Denz is a citizen of the State of New York. The Donald T. Denz Irrevocable Trust is a traditional trust, and the trustee of the Donald T. Denz Irrevocable Trust is Martin J. Clifford, a citizen of New York.

9. In accordance with 28 U.S.C. § 1446(a), Lakeland has provided notice to Plaintiff by mailing Plaintiff's counsel a copy of this Notice and the state court Notice of Filing of Notice of Removal. Lakeland has also provided notice to the Clerk of Court for the Circuit Court of Hinds County, Mississippi, through the filing of this Notice and the Notice of Filing of Notice of Removal into the record of the state court action. *See Exhibit B.*

10. The allegations of this Notice are true and correct, and as such, this cause of action is removable to the United States District Court for the Southern District of Mississippi, Northern Division.

This the 1st day of April 2022.

Respectfully submitted,

LAKELAND NURSING AND  
REHABILITATION CENTER, LLC

By Its Attorneys,

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s/ W. Davis Frye

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**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served the foregoing document with the Clerk of the Court using the Court's electronic filing system, which sent notification of such filing to all counsel of record, including the following:

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**ATTORNEY FOR PLAINTIFF**

THIS the 1st day of April 2022.

s/ W. Davis Frye

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